vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5216 OF 2007

The President
Krantiveer Dattajirao Patil
Shikshan Prasarak Sanstha &
Samaj Seva Mandal & Ors. ... Petitioners
V/s.
Sujata Balgonda Patil & Ors. ... Respondents

Mr.K.S. Patil for Petitioner
Mr.V.B. Rajure for Respondent

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **AUGUST 10, 2007**

P.C.:

. The petitioners have challenged the order of the School Tribunal dated 30.4.2007 passed in Miscellaneous Application No.9 of 2003. They have also challenged the exparte order passed in Miscellaneous Appeal No.50 of 2001 on 31.7.2003. According to the petitioners, they were unable to attend the appeal before the School Tribunal since the Vice-President of the Institution was unwell as he was suffering from a heart ailment. The President, Petitioner No.1, is the brother of the Vice-President. The Vice-President it appears passed away thereafter. The petitioners were then engaged in the treatment of the grandmother of the President and, therefore, could not attend the Court. According to the petitioners, they had entrusted the matter to an advocate whose sanad was later cancelled. In such circumstances, the petitioners have prayed that the appeal be restored to file.

2. In my view, since the petitioners had engaged advocates to look after their interests in the school tribunal in the appeal, in all probability, the petitioners have left it to the advocates to inform them about the matter. The fact that one of the advocates engaged by them had his sanad cancelled was not informed to the petitioners till they sought information from him on receipt of the caveat from the respondent. In my view, it would be appropriate to restore the appeal on payment of costs as condition precedent.

3. Hence,the following order:

(i) the order dated 30.4.2007 is set aside.

(ii) the appeal is restored to file on condition that the petitioners pay costs of Rs.5,000/- to the Respondent No.1 within two weeks from today.

(iii) In the event, the costs are paid and the Appeal is restored to file, the School Tribunal will decide the appeal within three months from today.

(iv) The parties shall remain present before the School Tribunal on 27.8.2007.

4. Writ Petition is disposed of accordingly.